

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Confirmation No.: 7249
David Chown Group Art Unit: 2613
Serial No.: 10/622,294 Examiner: Liu, Li
Filed: July 18, 2003 Docket No. 30020591-2
For: **TRANSMISSION OF SUPERVISORY DATA IN AN OPTICAL COMMUNICATION SYSTEM**

REQUEST FOR REFUND UNDER 37 CFR §1.26(a)

October 27, 2008

Mail Stop: 16 Smith Frohwein Tempel
Director of the USPTO Greenlee Blaha LLC
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request a refund under 37 CFR §1.26(a) in the amount of \$360.00 for an extension of time fee that was charged in an incorrect amount to Deposit Account Number 50-3718 on October 20, 2008. The reasons for requesting the refund are set forth below in detail in the Remarks section. Please credit the requested refund to Deposit Account Number 50-3718, which is the same account from which the fees were debited on October 20, 2008.

I hereby certify that this correspondence is being electronically transmitted via EFS Web to the United States Patent and Trademark Office on:

Date: October 27, 2008 /Robert A. Blaha/
Signature – Robert A. Blaha

REMARKS

On October 20, 2008, the undersigned attorney of record filed a Request for Continued Examination with a Petition for a Two-Month Extension of Time. The requisite fee of \$490.00 for a Two-Month Extension of Time was charged to Deposit Account No. 50-3718.

On October 21, 2008, it was discovered that the undersigned attorney of record erroneously applied 37 CFR 1.17a, which states that the appropriate extension fee is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office Action; or (2) on the mailing date of the Advisory Action, or the date set forth in the final rejection, whichever is later. The USPTO mailed a final Office Action on June 20, 2008. Applicant submitted a Response on August 8, 2008, within the two-month period for reply to a final rejection. The USPTO mailed an Advisory Action on August 28, 2008. In accordance with 37 CFR 1.17a, the appropriate extension of time, as indicated above is determined by the date set forth in the final Office Action. Specifically, a response to the final Office Action was due on September 20, 2008. Thus, the Request for Continued Examination, filed on October 20, 2008, required a one-month extension of time, not the Two-Month Extension of Time as indicated on the Request for Continued Examination. Accordingly, Applicant requests that the \$360.00 difference in the required fee for a Two-Month Extension of Time (\$490.00) and a One-Month Extension of Time (\$130.00) be refunded to Deposit Account No. 50-3718. Should the Office have any questions regarding the Applicant's request, Applicant requests that the Examiner telephone Applicant's undersigned attorney.

Respectfully submitted,

**SMITH FROHWEIN TEMPEL
GREENLEE BLAHA LLC**

By: _____ /Robert A. Blaha/

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